

HONORABLE RICHARD A. JONES

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

KARL MURRAY TOBEY,

Petitioner,

v.

JEFFREY UTTECHT,

Respondent.

CASE NO. C12-440 RAJ

ORDER

This matter comes before the court on *pro se* petitioner's motion to amend the judgment pursuant to Rule 59(e). Dkt. # 43.

A rule 59(e) motion “should not be granted, absent highly unusual circumstances, unless the district court is presented with newly discovered evidence, committed *clear error*, or if there is an intervening change in the controlling law.” *McDowell v. Calderon*, 197 F.3d 1253, 1255 (9th Cir. 1999) (quoting *389 Orange St. Partners v. Arnold*, 179 F.3d 656, 665 (9th Cir. 1999)) (emphasis in original).

The court clarifies that it did review petitioner's objection, for which the court had granted him an extension of time and leave to file excess pages. Dkt. ## 36, 8/13/2013 docket entry. Nevertheless, the court agreed with the analysis in the Report and Recommendation (“R&R”) and therefore adopted it in whole. Dkt. ## 32, 39.

1 The court has reviewed petitioner's motion, and finds that he fails to meet the Rule
2 59(e) standard of newly discovered evidence, clear error, or intervening legal authority.
3 Petitioner's motion largely rehashes prior arguments this court rejected.

4 For all the foregoing reasons, the court DENIES plaintiff's motion. Dkt. # 43.

5 Dated this 25th day of November, 2013.

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9 The Honorable Richard A. Jones
10 United States District Judge
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